

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

REVA CLAYTON, as Personal Representative
of the Estate of VIRGIL SNEED, Deceased;
and OMAR JOHNSON,

Case No. 05-60157

Plaintiffs,

Honorable John Corbett O'Meara

v.

TROOPER PHIL DUPLESSIS and TROOPER
JONATHON HENRY, Jointly and Severally,

Defendants.

ORDER OF PARTIAL REMAND

Plaintiffs filed suit in the Circuit Court for the County of Wayne on May 11, 2005. Defendants filed timely notice of removal June 9, 2005. The case was reassigned to this court as a companion case July 7, 2005. Count I of the complaint alleges gross negligence and willful and wanton misconduct in violation of state law and the Michigan Constitution. Count II alleges assault and battery; Count III, unlawful and/or false arrest; Count IV, false imprisonment; Count V, infliction of emotional distress; and Count VI, excessive and unreasonable force in violation of 42 U.S.C. § 1983. While alleged violations of 42 U.S.C. § 1983 are cognizable in this court pursuant to 28 U.S.C. § 1343, the remaining allegations present claims based solely on state law. Since the parties to this matter are not diverse, the court declines to exercise pendent jurisdiction over the state claims. See United Mine Workers v. Gibbs, 383 U.S. 715 (1966); 28 U.S.C. § 1367(c).

Therefore, pursuant to 28 U.S.C. § 1367(c), it is hereby **ORDERED** that Counts I through V of the complaint are hereby **REMANDED** to the Circuit Court for the County of Wayne.¹

s/John Corbett O'Meara
John Corbett O'Meara
United States District Judge

Dated: August 24, 2005

¹Defendants filed motions for dismissal June 9, 2005; and Plaintiffs filed responses August 9, 2005. The motions are set for hearing September 14, 2005. The parties may amend their pleadings in accordance with this order if they so desire.